

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CT-3123-BO

SHAUN ANTONIO HAYDEN,

Plaintiff,

v.

PAUL G. BUTLER, JR.¹,

Defendant.

NOTICE OF APPEAL

PLEASE TAKE NOTICE THAT Defendant Paul G. Butler, Jr., hereby appeals to the United States Court of Appeals for the Fourth Circuit from: (1) the Order (D.E. 58) entered on September 25, 2015, by the Honorable Terrence W. Boyle, United States District Judge, granting Plaintiff's motion for summary judgment and concluding that the parole review process employed by the North Carolina Post-Release Supervision and Parole Commission for offenders convicted of offenses committed as juveniles and serving life sentences violates the Eighth Amendment to the United States Constitution; and (2) the Order (D.E. 96) entered on November 2, 2017, by the Honorable Terrence W. Boyle, United States District Judge, granting Plaintiff's request for injunctive relief.

¹ Plaintiff's Amended Complaint, initially filed as D.E. 22 in the previous habeas action (5:10-HC-2272), identified Paul G. Butler, Jr. as the sole defendant. (D.E. 22, 5:10-HC-2272) The district court allowed that Amended Complaint to proceed. (D.E. 25, 5:10-HC-2272) In addition, the same Amended Complaint was filed in the instant action seeking relief only from Butler in his official capacity. (D.E. 10, 5:10-ct-3123) Butler served as the Chairman of the North Carolina Post-Release Supervision and Parole Commission until the end of his appointment on 1 February 2017. Willis J. Fowler was subsequently appointed by Governor Roy Cooper to serve as Chairman of the Parole Commission. Accordingly, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and Rule 43(c)(2) of the Federal Rules of Appellate Procedure, Willis J. Fowler should be substituted in place of Defendant Butler.

Respectfully submitted this the 1st day of December, 2017.

JOSHUA H. STEIN
Attorney General

/s/ Joseph Finarelli
Joseph Finarelli
Special Deputy Attorney General
Public Safety Section
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
Telephone: (919) 716-6531
Facsimile: (919) 716-6563
E-mail: jfinarelli@ncdoj.gov
N.C. State Bar No. 26712

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing **NOTICE OF APPEAL** with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to the following:

Elizabeth G. Simpson
esimpson@ncpls.org
Mary S. Pollard
mpollard@ncpls.org
Benjamin Finholt
bfinholt@ncpls.org
Attorneys for Plaintiff

This the 1st day of December, 2017.

/s/ Joseph Finarelli
Joseph Finarelli
Special Deputy Attorney General